



FOLEY & LARDNER LLP

**FOLEY & LARDNER LLP
ATTORNEYS AT LAW**

2029 CENTURY PARK EAST
LOS ANGELES, CALIFORNIA 90067-3021
310.277.2223 TEL
310.557.8470 FAX
www.foley.com

October 24, 2007

WATER'S DIRECT LINE
310.975.7963
rittmaster@foley.com EMAIL

CLIENT/MATTER NUMBER
047711-0221

COPY

VIA FACSIMILE: (571) 273-4957

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Attn: Examiner Matthew F. Desanto

Re: U.S. Patent Application No.: 09/768,196
Filing Date: 1/22/2001
Title: AMBULATORY MEDICAL APPARATUS WITH HAND
HELD COMMUNICATION DEVICE
Inventor(s): Ronald J. Lebel et al.
Our Ref.: 047711-0221

Dear Examiner DeSanto:

Thank you for taking my call today to discuss the above-referenced patent application. Per our telephone conference, we are proposing the possibility of a further amendment to each of the independent claims. An example of the proposed amendment is shown in the proposed amended version of claim 12, shown below.

In the proposed amendment to claim 12, we have added the statement that the patient programmable options are selectable from the at least one first menu when displayed on the at least one first menu. This amendment further clarifies our position that the first menu is distinguished from Moon et al.'s rotating meter display, which is simply a rotating visual graphic and not a menu from which a patient programmable option can be selected.

If you agree that the proposed amended version of claim 12 is distinguished from the prior art of record, then we would be willing to make a similar amendment to independent claim 29, as well. As we discussed, please contact me at the Los Angeles telephone number (310) 975-7963, once you have had a chance to consider the current proposal. I look forward to discussing this proposed claim amendment.

Sincerely,

Ted R. Rittmaster

TRR/jr
Enclosures

BOSTON
BRUSSELS
CHICAGO
DETROIT

JACKSONVILLE
LOS ANGELES
MADISON
MILWAUKEE

NEW YORK
ORLANDO
SACRAMENTO
SAN DIEGO

SAN DIEGO/DEL MAR
SAN FRANCISCO
SILICON VALLEY
TALLAHASSEE

TAMPA
TOKYO
WASHINGTON, D.C.
WEST PALM BEACH



FOLEY & LARDNER LLP

Matthew F. Desanto

October 24, 2007

Page 2

DRAFT
COPY

Proposed Amended Version of Claim 12:

12. (Proposed Amendment) A medical system, comprising:
- a) an ambulatory medical device (MD) comprising MD electronic control circuitry that further comprises at least one MD telemetry system and at least one MD processor that controls, at least in part, operation of the MD telemetry system and operation of the medical device, wherein the medical device is configured to provide a treatment to a body of a patient or to monitor a selected state of the body; and
 - b) a communication device (CD) comprising CD electronic control circuitry that further comprises at least one CD telemetry system and at least one CD processor that controls, at least in part, operation of the CD telemetry system and operation of the communication device, wherein the CD telemetry system sends messages to or receives messages from the MD telemetry system using RF transmissions,
- wherein the CD display is controlled to depict a plurality of patient programmable options on at least one first menu, wherein the patient programmable options are selectable from the at least one first menu when displayed on the at least one first menu, and wherein at least one of the patient programmable options may be enabled and disabled at different times from a second menu such that when disabled the at least one patient programmable option is no longer displayed on the at least one first menu as an option while at least one enabled option is displayed on the at least one first menu.